HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.25957 of 2005

Dated: 24.08.2007

Between:

Yousuf Begum

... Petitioner

AND

Transmission Corporation of A.P.Ltd.,
(APTRANSCO), Hyderabad
and others.

... Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.25957 of 2005

ORDER:-

This writ petition is filed for a writ of mandamus to declare the action of respondents in insisting on the petitioner to pay arrears of electricity charges pertaining to service connection bearing No.B1-3047 before the premises was sold to the petitioner, as illegal and arbitrary.

The petitioner purchased a mulgi bearing shop No.5-9-20/A, Saifabad, Hyderabad under a registered sale deed dated 7.7.2004 for a valid consideration. When the petitioner applied to the respondents for release of a low tension power supply (commercial) vide her application dated 27.6.2005, she was orally informed that in view of the arrears to a tune of Rs.1,63,938/-, payable on the service connection bearing No.B1-3047, fresh power supply cannot be released until the said arrears are cleared. Questioning the rejection of the release of a fresh power supply connection, the present writ petition is filed.

Heard Sri D.V.Nagarjuna Babu, learned counsel for the petitioner and Sri O.Manohar Reddy, learned Standing Counsel for the respondents.

Sri D.V.Nagarjuna Babu, submitted that since the respondents do not have any statutory charge over the arrears of electricity, the

petitioner being a bona fide purchaser for valuable consideration from the owner of the premises, the respondents cannot seek to recover the arrears payable on the service connection belonging to a different consumer. He relied upon a judgment of the Supreme Court in **Isha Marbles Vs. Bihar State Electricity Board**[1] in support of his contention that the subsequent purchaser of the premises is not liable to pay the arrears of electricity charges. The learned counsel also relied upon a judgment of the learned Single Judge of this Court in W.P.No.13812 of 2005 dated 4.7.2005.

I have carefully considered the submissions of the learned counsel. In **Isha Marbles** the Supreme Court examined in detail the issue whether the electricity undertakings are entitled to recover arrears from the subsequent purchasers. The Apex Court held that in the absence of a statutory charge created under the relevant statutory provisions, the electricity undertakings cannot seek to recover the arrears from the subsequent purchasers, unless the subsequent purchasers under the sale transactions have undertaken to discharge the arrears. The learned Single Judge in the aforementioned judgment, referred to the said judgment of the Supreme Court and also a judgment in **Ahmedabad Electricity Co., Ltd., Vs. Gujarat Inns Pvt.Ltd., and Others**[2] in upholding the contention of the petitioner therein who was the subsequent purchaser of the premises that it is not liable to pay the arrears owed by the previous consumer and that the respondents cannot refuse to release the power supply on the ground that the arrears are not cleared by the purchasers.

I have carefully perused the recitals of the sale deed dated 7.7.2004 under which the petitioner herein purchased the premises in dispute and none of the recitals in the sale deed had fastened any

liability on the petitioner to discharge the arrears of electricity charges in respect of service connection which was in existence prior to the sale of the property in favour of the petitioner.

In view of the aforementioned ratio laid down by the Supreme Court and followed by this court, the petitioner is entitled for release of power supply.

The writ petition is allowed accordingly. No order as to costs.

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C.V.NAGARJUNA REDDY,J

Date:24.08.2007
mdaa

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[1] (1995) 2 SCC 648

[2] AIR 2004 SC 2171